D. REMARKS

Status of Claims

Claims 1-26, 28-34, and 36-39 remain pending in the application. Claims 1, 2, 5, 6, 9, 10, 13, 14, 17-23, 26, 18-31, 34, and 36-39 are amended. Claims 27, 35, and 40 are canceled.

35 USC § 103(a)

Claims 1-5, 7-13, 15-18, 20-21, 24-37, and 39-40 are not obvious under Swope in view of Tanaka et al.

The Office Action dated March 21, 2005 rejects claims 1-5, 7-13, 15-18, 20-21, 24-37, and 39-40 under 35 U.S.C. §103(a) as being allegedly unpatentable over Swope in view of Tanaka et al. [Office Action, p. 2] In particular, on pages 2-4 of the Office Action, the Examiner states the following grounds of rejection of claims 1-5, 7-13, 15-18, 20-21, 24-37, and 39-40:

> Swope et al. teaches a system and method for reverse billing of a telephone call including receiving a request to originate a billed transaction for a caller from an origin device (col. 3), authenticating an identity of a called party answering a call originated by the origin device (fig. 3B; col. 5, lines 24-42), and responsive to receiving an acceptance of the call by the called party from destination device, billing an account accessed by the authenticated identity of the called party to complete the billed transaction, such that the origin device is enabled to initiate the billed transaction charged to the called party in (see col. 1, lines 5-14; fig. 3B; col. 7, lines 7-33).
>
> Swope et al does not disclose:
>
> the telephony device is a wireless telephone;
>
> transferring a tariff for tracked usage to a billing plan, such that the owner of the telephone device is electronically compensated for the usage;
>
> negotiating payment of the tariff including micropayment transfer.
>
> Tanaka et al discloses wireless telephone (fig 1), transferring a tariff for tracked usage to a billing plan, such that the owner of the telephony device is electronically compensated for the usage (para 0036), and negotiating payment of the tariff including micropayment transfer (para 0037).
>
> It would have been obvious to one with ordinary skill in the art to include a wireless telephone as the telephony device because Tanaka et al teaches that

wireless and wireline are both part of the "telecommunications switching infrastructure" (fig 1).

It would have been obvious to one with ordinary skill in the art to include transferring a tariff for tracked usage to a billing plan, such that the owner of the telephony device is electronically compensated for the usage because Tanaka et al teaches that tariffs are known and must be accounted for in billing (para 0036).

It would have been obvious to one with ordinary skill in the art to include negotiating payment of the tariff including micropayment transfer because Tanaka et al teaches that tariffs are negotiable.

<u>Claims 1, 9, and 17</u>

With regards to claims 1, 9, and 17, independent method claim 1, which is representative of independent system claim 9 and independent computer program product claim 17, with regard to similarly recited subject matter and rejection, reads as follows:

1. (Currently Amended) A method for billing for telephone usage, said method comprising:

tracking, at a telephony device, usage of [a] at least one measurable element of said telephony device itself by an identifiable individual, wherein said identifiable individual is distinct from an owner of said telephony device, wherein said usage of said measurable element is separate from any use of telephone service to said telephony device for a call;

calculating, at said telephony device, a tariff for a cost of said amount of usage of said measurable element of said telephony device by said identifiable individual based on a cost per unit of actual usage of said measurable element specified by said owner of said telephony device; and

transferring [a] said tariff to bill a billing plan for said identifiable individual for said tracked usage of said measurable element of said telephony device from said telephony device via a telephone network to a billing service ~~plan for said identifiable individual~~, wherein said billing service is enabled to facilitate transfer of an electronic payment between an account provider designated in said billing plan for said identifiable individual and an account for said owner of said telephony device, such that said owner of said telephony device is electronically compensated for [said] usage of [said] the actual telephony device by said identifiable individual.

The Examiner carries the burden of proving a prima facie case of obviousness for a 103(a) rejection. In particular, in establishing a prima facie case of obviousness under 103(a), the combined prior art references must teach or suggest all the claim limitations. *In re Vaeck*, 947 F.3d 488, 20 USPQ2d 1438 (Fed Cir. 1991). In particular, in determining the differences between the prior art and the claims, the question under 35 U.S.C. 103 is not whether the differences themselves would have been obvious, but whether the claimed invention as a whole would have been obvious. *Stratoflex, Inc. v. Aeroquip Corp.*, 713 F.2d 1530, 218 USPQ 871 (Fed. Cir. 1983); *Schenck v. Nortron Corp.*, 713 F.2d 782, 218 USPQ 698 (Fed. Cir. 1983). Applicants respectfully disagree with the Examiner's characterization of the invention as taught by the reverse billing telephone system of Swope. Nonetheless, regardless of whether the Examiner's assertions as to obviousness are correct, Applicants amend claims 1, 9, and 17 to clarify that claims 1, 9, and 17 teach at least one element not disclosed by Swope or Tanaka et al, separately or in combination. In particular, Applicants respectfully assert that the references do not teach or suggest, separately or in combination, <u>tracking, at a telephony device, usage of at least one measurable element of said telephony device itself by an identifiable individual, wherein said identifiable individual is distinct from an owner of said telephony device, wherein said usage of said measurable element is separate from any use of telephone service to said telephony device for a call</u>; <u>calculating, at said telephony device, a tariff for a cost of said amount of usage of said measurable element of said telephony device by said identifiable individual based on a cost per unit of actual usage of said measurable element specified by said owner of said telephony device</u>; or <u>transferring said tariff to bill a billing plan for said identifiable individual for said tracked usage of said measurable element of said telephony device from said telephony device via a telephone network to a billing service</u>. Applicants traverse the grounds of rejection in view of the amended elements of claims 1, 9, and 17.

First, Applicants respectfully disagree with the Examiner's assertion that Tanaka teaches "transferring a tariff for tracked usage to a billing plan, such that the owner of the telephony device is electronically compensated for the usage". The Examiner cites Tanaka as disclosing "wireless telephone (fig 1), transferring a tariff for tracked usage to a billing plan, such that the

owner of the telephony device is electronically compensated for the usage (para 0036), and negotiating payment of the tariff including micropayment transfer (para 0037)." [Office Action, p. 3] In addition, the Examiner states that "Tanaka teaches that tariffs are known and must be accounted for in billing" in paragraph 0036. [Office Action, p. 3] Paragraph 0036 and the first two lines of paragraph 0037 read:

> In step 302, the system determines the location of the user being billed, and queries billing location database 131 for a matching subsidized location. In the event of multiple matches a conflict resolution procedure is followed, preferably by picking the match giving the most favorable rate to the customer. Alternatively, the system may pick the match that gives the most favorable profit to the telecommunications company, or use any predetermined algorithm. In step 303, the system determines whether the call is subsidized in response to the query. If the call is not subsidized, step 304 conducts billing according to any other tariffs that may be in effect per standard billing practices.
>
> If a location subsidy is in effect, step 305 bills the amount of the subsidy for that call to the subsidizer, recording appropriate information in business billing records 133.

In general, Tanaka describes a "location-sensitive billing system" where different locations are assigned a particular subsidy rate and a user placing a wireless telephone call within a subsidized location may receive the subsidy. *Tanaka*, paragraphs 0026, 0037, 0037. Within Figure 3 of Tanaka, step 304, which reads "bill at standard rate according to other/default tariff information", is reached only if the wireless telephone is not within a subsidized location during a call. While Tanaka also refers to a "tariff" in step 304 in paragraph 0036, there is no specific description of what "other tariffs that may be in effect per standard billing practices" actually refers to in paragraph 0036. Within the background of the invention of Tanaka, paragraphs 0006 and 0007 provide examples of "customer specific billing schemes", as opposed to "location-sensitive billing systems" in which, for wireless telephony service, a particular user is charged a low rate for calls placed in that user's "home zone" and an increased rate for calls placed outside that user's home zone. Paragraph 0050 of Tanaka describes that "the subsidy arrangement taught herein may be combined with existing customer specific billing schemes that associate billing zones with a customer instead of with subsidized businesses. In such a combined system the customer-based zone information would preferably be invoked as part of the standard tariff

step of 304." Thus, when considered as a whole, Applicants respectfully assert that Tanaka teaches a system in which a "location-sensitive billing system" of a "tariff" in step 304 merely refers to possible variances in a standard billing practice by a "location-sensitive billing system" if a "customer specific billing scheme" is in place and no location-sensitive subsidies are available for the current location of the telephone device. Neither paragraph 0036, nor Tanaka viewed as a whole, discloses "transferring a tariff for tracked usage to a billing plan, such that the owner of the telephony device is electronically compensated for the usage". Applicants, however, amend claim 1 to clarify that claim 1 is distinguishable from Tanaka in the amended teaching that an already calculated tariff at is transferred from the used telephone device itself via the telephone network to a billing service enabled to control the transfer of an electronic payment from an account of the identifiable individual using the telephone device to the account of the owner of the telephone device.

Second, neither Swope nor Tanaka teaches tracking usage of a telephony device at the telephony device itself or calculating the tariff at the telephony device itself. Figure 4 shows a service bureau 330 that tracks and provides the reverse billing service for the telephone service provided to a separate telephone device 300. Figure 2 of Tanaka shows the location-sensitive billing system 105 that tracks telephone billing according to location of the telephone device as a separate from the telephone device 101a. Neither Swope, nor Tanaka, teaches a telephony device that tracks usage of the device itself or calculates a tariff at the device itself. In contrast, amended claim 1 teaches a telephone device that tracks usage of at least one measurable element of the telephony device itself and calculates the tariff for that usage at the telephony device itself. In particular, in the specification, page 12, lines 14-16 and page 28, lines 10-23.

Third, neither Swope nor Tanaka teaches tracking usage of a telephony device itself, where the usage is separate from any use of telephone service to the telephony device for a call. The Examiner states the same ground of rejection for claims 1 and 2; claim 2 specifies that usage includes at least one of possession of the telephony device, battery usage, or address book lookup usage. Each of these types of usage are indicative of usage of the telephony device itself and are not indicative of use of the telephone service provided to the telephony device for a call.

Applicants respectfully note that the Examiner does not specifically identify any teaching of Swope or Tanaka, separately or in combination, that teaches any of the limitations of usage of the telephony device itself in claim 2. Further, Swope and Tanaka only teach tracking the use of telephone service by a particular telephony device for a call and not a telephony device that tracks the use of the telephony device itself separate from the telephone service provided for a call to the telephony device. Nonetheless, Applicants amend claim 1 to clarify that usage of a measurable element of the telephony device itself is tracked and that the usage of a measurable element is separate from the telephone service provided to the telephony device for a call. The specification supports this clarification throughout, and in particular, on page 10, lines 16-20, page 12 line 14 through page 13 line 6, and page 35, lines 12-20. In particular, page 12, line 29 through page 13 line 2 teaches "In particular, while use of the origin device may be tracked concurrently with a call originated from the origin device, use of the origin device independent of a call may also be tracked."

Fourth, neither Swope nor Tanaka teaches calculating a tariff for a cost of usage of a telephony device itself on a cost per unit specified by the owner of the telephony device. Swope and Tanaka teach a billing rate for a telephone service connection. Swope, col. 1, line 65 through col. 2, line 7; Tanaka, paragraph 0009. In contrast, claim 1 is amended to teach that the owner of a telephony device sets the cost per unit of usage of the telephony device itself, separate from any telephone service provided to the telephony device for a call, and that the tariff for actual usage by a particular individual is calculated based on the cost per unit specified by the owner of the telephony device. The specification supports calculating a tariff for cost of usage of the telephony device itself based on a cost per unit specified by the owner on page 38, lines 8-21 and Figure 4, element 55.

In conclusion, a prima facie case of obviousness under 103(a) is not established for claims 1, 9, and 17, as amended, because at least one element of claims 1, 9, and 17 is not taught by Swope and Tanaka, separately or in combination. Because a prima facie case of obviousness under 103(a) is not established for claims 1, 9, and 17, Applicants respectfully request allowance of claims 1, 9, and 17.

Claims 2-5, 7, 8, 10-13, 15, 16, and 18

Regarding claims 2-5, 7, 8, 10-13, 15, 16, and 18, Applicants respectfully assert that because the independent claims 1, 9, and 17 upon which these dependent claims respectively rely are not obvious in view of Swope and Tanaka, alone or in combination, then these dependent claims are also not obvious in view of Swope and Tanaka and the dependent claims should be allowed. In addition, Applicants note that claims 2, 5, 10, 13, and 18, are amended to maintain proper antecedent basis responsive to the amendments made to claims 1, 9, and 17.

Claims 20, 28, and 36

With regards to claims 20, 28, and 36, independent method claim 20, which is representative of independent system claim 28 and independent computer program product claim 36, with regard to similarly recited subject matter and rejection, reads as follows:

> 20.(Currently Amended) A method for billing a non-owner for telephone usage, said method comprising:
>
> detecting, at a billing service operating outside a trusted telephone network via a secure channel established between a telephone service provider within said trusted telephone network and said billing service, a tariff calculated at a telephony device for usage by an identifiable individual of at least one measurable element of [a] said telephony device communicatively connected with telephone service from said telephone service provider within said trusted telephone network ~~by an identifiable individual~~, wherein said identifiable individual is different from an owner of said telephony device, wherein said usage of said measurable element is separate from any use of telephone service by said telephone service provider to said telephony device for a call; and
>
> facilitating, through said billing service, transfer of an electronic payment for a cost designated in said tariff between a first account provider designated for [charging] said identifiable individual and a second account provider for said owner of said telephony device ~~a tariff for said usage of said at least one measurable element of said origin telephony device~~, such that said owner is compensated for usage of said telephony device.

The Examiner carries the burden of proving a prima facie case of obviousness for a 103(a) rejection. In particular, in establishing a prima facie case of obviousness under 103(a), the combined prior art references must teach or suggest all the claim limitations. *In re Vaeck*, 947 F.3d 488, 20 USPQ2d 1438 (Fed Cir. 1991). In particular, in determining the differences between the prior art and the claims, the question under 35 U.S.C. 103 is not whether the differences themselves would have been obvious, but whether the claimed invention as a whole would have been obvious. *Stratoflex, Inc. v. Aeroquip Corp.*, 713 F.2d 1530, 218 USPQ 871 (Fed. Cir. 1983); *Schenck v. Nortron Corp.*, 713 F.2d 782, 218 USPQ 698 (Fed. Cir. 1983). Applicants respectfully disagree with the Examiner's characterization of the invention as taught by the reverse billing telephone system of Swope. Nonetheless, regardless of whether the Examiner's assertions as to obviousness are correct, Applicants amend claims 1, 9, and 17 to clarify that claims 1, 9, and 17 teach at least one element not disclosed by Swope or Tanaka et al, separately or in combination. In particular, Applicants respectfully assert that the references do not teach or suggest, separately or in combination, <u>detecting, at a billing service operating outside a trusted telephone network via a secure channel established between a telephone service provider within said trusted telephone network and said billing service, a tariff calculated at a telephony device for usage by an identifiable individual of at least one measurable element of said telephony device communicatively connected with telephone service from said telephone service provider within said trusted telephone network, wherein said identifiable individual is different from an owner of said telephony device, wherein said usage of said measurable element is separate from any use of telephone service by said telephone service provider to said telephony device for a call</u> or <u>facilitating, through said billing service, transfer of an electronic payment for a cost designated in said tariff between a first account provider designated for said identifiable individual and a second account provider for said owner of said telephony device, such that said owner is compensated for usage of said telephony device</u>. Applicants traverse the grounds of rejection in view of the amended elements of claims 20, 28, and 36.

First, neither Swope nor Tanaka teaches a billing service that receives a tariff already calculated at a telephony device itself. Swope shows telephone device 300 which is connected to

a telecommunication system 310 that routes calls to a central office 320, which then routes calls to a service bureau associated with the number dialed by the calling party. *Swope*, Figure 4, col. 6, lines 56-67. Swope describes the service bureau as performing the reverse billing service. *Swope*, col. 7, lines 1-43. Swope does not teach that the reverse billing service receives an tariff cost already calculated by telephone device 300. Tanaka shows a location sensitive billing service that detects a location of a mobile unit, determines whether the location is one that is subsidized, calculates the subsidy and then bills the user based on the subsidy. *Tanaka*, Figure 3. Tanaka does not teach a location sensitive billing service that receives a tariff calculated by the mobile unit. In contrast, claim 20 is amended to teach a billing service that detects a tariff calculated at a telephony device itself for usage of at least one measurable element of the telephony device. Further, the specification supports the amendment throughout, and in particular, on page 28, lines 14-23.

Second, neither Swope nor Tanaka teaches a billing service that facilitates transfer of a cost for a tariff based on tracked usage of the telephony device itself, where the usage is separate from any use of telephone service to the telephony device for a call. Swope and Tanaka only teach tracking the use of telephone service by a particular telephony device for a call and not a telephony device that tracks the use of the telephony device itself separate from the telephone service provided for a call to the telephony device. Swope and Tanaka do not teach a billing service that receives a tariff with a cost based on usage of the telephony device itself, separate from costs associated with use of telephone service. In contrast, claim 20 is amended to clarify that usage of a measurable element of the telephony device itself and calculation of a tariff for that usage is performed by the telephony device, that the usage of a measurable element is separate from the telephone service provided to the telephony device for a call, and that the billing service receives this already calculated tariff and facilitates the transfer of payment. The specification supports this clarification throughout, and in particular, on page 10, lines 16-20, page 12 line 14 through page 13 line 6, page 35, lines 12-20 and Figure 7.

Additionally, Applicants note that claim 20 is amended to teach <u>a billing service operating outside a trusted telephone network via a secure channel established between a</u>

telephone service provider within said trusted telephone network and said billing service. Neither Swope nor Tanaka teach a billing service operating outside a trusted telephone network. Applicants note that the amended limitation is described in Figures 1-3 and in the specification page 14, line 18 through page 16, line 18, page 35, line 22 through page 36, line 19.

In conclusion, a prima facie case of obviousness under 103(a) is not established for claims 20, 28, and 36, as amended, because at least one element of claims 20, 28, and 36 is not taught by Swope and Tanaka, separately or in combination. Because a prima facie case of obviousness under 103(a) is not established for claims 20, 28, and 36, Applicants respectfully request allowance of claims 20, 28, and 36.

Claims 21, 24-27, 29-35, 37, and 39-40

Regarding claims 21, 24-26, 29-34, 37, and 39, Applicants respectfully assert that because the independent claims 20, 28, and 36 upon which these dependent claims respectively rely are not obvious in view of Swope and Tanaka, alone or in combination, then these dependent claims are also not obvious in view of Swope and Tanaka and the dependent claims should be allowed. Claims 27, 35, and 40 are cancelled.

In addition, Applicants note that claims 26, 34, and 39, as amended, are not taught or suggested by Swope and Tanaka, separately or in combination, and therefore should be allowed. In particular, dependent method claim 26, which is representative of dependent system claim 34 and dependent program product claim 39, is amended as follows:

> 26.(Currently Amended) The method for billing a non-owner for telephone usage according to claim 20, wherein facilitating, through said billing service, transfer of an electronic payment for a cost designated in said tariff ~~charging said identifiable individual a tariff~~ further comprises:
>
> establishing a secure channel between said first account provider and said second account provider for a billed transaction of said electronic payment. ~~negotiating payment of said tariff from a service provider for said identifiable individual to an additional service provider for said owner.~~

The amended limitation is supported in Figures 1 and 7 and in the specification on page 43, lines 18-22. Applicants respectfully assert that Swope and Tanaka, separately or in combination, do

not teach or suggest establishing a secure channel between account providers for the transfer of an electronic payment for usage of a telephony device itself, based on a tariff initiated by the telephony device itself, and therefore Applicants respectfully request allowance of claim 26.

Claims 6, 14, 19, 22-23, and 38 are not obvious under Swope in view of Tanaka et al. and further in view of Bauer et al.

The Office Action dated March 21, 2005 rejects claims 6, 14, 19, 22-23, and 38 under 35 U.S.C. §103(a) as being allegedly unpatentable over Swope in view of Tanaka and further in view of Bauer et al. ('900) (hereinafter referred to as Bauer). [Office Action, p. 2] Applicants note that claims 6, 14, 19, 22-23 and 38 are dependent upon independent claims 1, 9, 17, 20, and 36, which are amended towards allowance. Therefore, Applicants respectfully request allowance of dependent claims 6, 14, 19, 22-23, and 38 with the allowance of independent claims 1, 9, 17, 20, and 36.

In addition, Applicants note that claims 6, 14, and 19 are amended to overcome any teachings by Swope, Tanaka, and Bauer. Dependent method claim 6, which is representative of dependent system claim 14 and dependent computer program product claim 19, with regard to similarly recited subject matter and rejection, reads as follows:

> 6.(Currently Amended) The method for billing for telephone usage according to claim 1, further comprising:
>
> detecting an authenticated identity of said identifiable individual;
>
> selecting a particular cost per unit of actual usage specified by said owner of said telephony device for said authenticated identity of said identifiable individual from among a plurality of separate costs per unit of actual usage specified by said owner for each of a plurality of separate authenticated identities; and
>
> calculating said tariff according to said particular cost per unit of actual usage specified for said authenticated identity of said identifiable individual.

In particular, claim 6 is amended to teach selecting a particular cost per unit of actual usage specified by said owner of said telephony device for said authenticated identity of said

identifiable individual from among a plurality of separate costs per unit of actual usage specified by said owner for each of a plurality of separate authenticated identities. Applicants respectfully assert that Swope, Tanaka, and Bauer, separately or in combination, do not teach selecting a particular cost per unit of usage of the telephony device itself, at the telephony device, from among multiple costs per unit specified by the owner, based on the identity of the user. The specification supports the limitation in Figure 5, element 55, and page 38, lines 6-21. Therefore, because Swope, Tanaka, and Bauer, separately or in combination, do not teach at least one element of claims 6, 14, and 19, prima facie obvious is not established, and Applicants request allowance of these claims.

Further, Applicants note that claims 22-23 and 38, are amended to overcome any teachings by Swope, Tanaka, and Bauer. In particular, claims 22-23 are amended as follows:

> 22. (Currently Amended) The method for billing a non-owner for telephone usage according to claim <u>21</u> [20], <u>retrieving account providers</u> further comprising:
>
> <u>retrieving, based on said voice authenticated identifier for said owner, a billing plan for said owner comprising a plurality of providers each specified for handling a particular type of billing from among a plurality of types of billing accessible to said owner, wherein said second account provider is designated from among said plurality of providers for crediting tariff costs.</u>
>
> ~~authenticating an identity of said identifiable individual.~~
>
> 23. (Currently Amended) The method for billing a non-owner for telephone usage according to claim <u>21</u> [22], <u>retrieving account providers</u> further comprising:
>
> <u>retrieving, based on said voice authenticated identifier for said identifiable individual, a billing plan for said identifiable individual comprising a plurality of providers each specified for handling a particular type of billing from among a plurality of types of billing accessible to said owner, wherein said first account provider is designated from among said plurality of providers for charging tariff costs.</u>

In addition, claim 38 is amended similarly to claim 22. Applicants note that the amended limitations are supported by Figure 4, Figure 7 and the specification page 34, lines 14-27, page 37, lines 7-15, page 38, lines 23-26, and page 43, lines 14-17. Applicants respectfully assert that Swope, Tanaka, and Bauer, separately or in combination, do not teach retrieving a billing plan

with multiple providers, where one of the providers is specifically designated for tariff billing purposes. Therefore, because Swope, Tanaka, and Bauer, separately or in combination, do not teach at least one element of claims 22, 23, and 28, prima facie obvious is not established, and Applicants request allowance of these claims.

Double Patenting

The Examiner rejected claims 1, 9, 17, 20, 28, and 36 on nonstatutory double patenting grounds based on the judicially created doctrine grounded in public policy to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ 2010 (Fed. Cir. 1993). [Office Action, p. 5] The Examiner notes that a timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome a provisional rejection based on nonstatutory double patenting ground provided that the conflicting application is shown to be commonly owned with this application. See 37 CFR 1.130(b). [Office Action, p. 5]

Specifically, the Examiner provisionally rejects claims 1, 9, 17, 20, 28, and 36 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 and 6 of copending Application No. 10/023, 406 in view of Tanaka et al. [Office Action, p. 5] In addition, the Examiner states that "the patent to Tanaka et al. and Bauer et al is applied as described in the previous art rejection for reasons for claiming tariff considerations in the co-pending application." [Office Action, p. 5]

Responsive to the provisional double patenting rejection, Applicants traverse the rejection by asserting that claims 1, 9, 17, 20, 28, and 36, as amended, are not unpatentable over claims 1 and 6 of copending Application No. 10/023,406 in view of Tanaka et al. and requesting a reexamination of the double patenting rejection in view of the amendments in the present response and in the Amendment filed in copending Application No. 10/023,406 on April 25, 2005. In particular, Applicants note first that claims 1, 9, 17, 20, 28, and 36 are amended to overcome any teachings of Tanaka et al. Further, Applicants note that claims 1 and 6 of copending Application No. 10/023,406 in the Amendment filed April 25, 2005 read as follows:

1. (Currently Amended) A method for billing for [telephone] services provided by a caller originating a call, said method comprising:

receiving a request to originate a billed transaction for a service provided by a caller from an origin device;

authenticating an identity of a callee answering a call originated by said origin device; and

responsive to receiving an acceptance of said call by said callee from a destination device, billing an account accessed by said authenticated identity of said callee for a cost of said service and crediting said cost to a caller account to complete said billed transaction when said service provided by said caller is complete, such that said origin device is enabled to initiate said billed transaction charged to said callee for said service provided by said caller to said callee during said call.

6.(Currently Amended) The method for billing for [telephone] services according to claim 1, further comprising:

authenticating an identity of said caller utilizing said origin device; and
providing said callee with said identity of said caller.

In particular, claim 1 of Application No. 10/023,406 is amended to clarify that the billed transaction is for a service provided by a caller to a callee during a call. In contrast, claims 1, 9, 17, 20, 28, and 36 are amended in the present response to clarify that a tariff is calculated to charge an individual for use of a telephony device itself and pay the owner of the device for that use, where the individual is someone other than the owner of the device. Therefore, in view of the amendments to the claims in both Application No. 10/023,406 and the present application, Applicants respectfully request reexamination and removal of the provisional double patenting rejection.

Conclusion

Applicants note the citation of pertinent prior art cited by the Examiner.

In view of the foregoing, withdrawal of the rejections and the allowance of the current pending claims are respectfully requested. If the Examiner feels that the pending claims could be allowed with minor changes, the Examiner is invited to telephone the undersigned to discuss an Examiner's Amendment.

Respectfully submitted,

6/20/05

Amy J. Pattillo
Attorney for Applicants
Reg. No 46,983
P.O. Box 161327
Austin, Tx 78716
512.402.9820 *vox*
512.306.0417 *fax*